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8 Attorneys for Defendant ARISTA NETWORKS, INC.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12 CISCO SYSTEMS, INC.,

13 Plaintiff,

14 v.

15 ARISTA NETWORKS, INC.,

16 Defendant.

Case No. 5:14-cv-05344-BLF (PSG)

**DECLARATION OF EDUARDO E.
SANTACANA IN SUPPORT OF CISCO'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL CONFIDENTIAL
INFORMATION IN CISCO'S RESPONSE
TO ARISTA'S SUPPLEMENTAL
PROPOSED DISCOVERY PLAN (ECF No.
196)**

Judge: Hon. Beth Labson Freeman

Date Filed: December 5, 2014

Trial Date: November 21, 2016

1 I, Eduardo E. Santacana, declare:

2 1. I am an attorney licensed to practice law in the State of California and am an
3 associate with the law firm of Keker & Van Nest LLP, located at 633 Battery Street,
4 San Francisco, California 94111, counsel for Defendant Arista Networks, Inc. (“Arista”) in the
5 above-referenced action. Unless otherwise stated, the facts I set forth in this declaration are based
6 on my personal knowledge or knowledge I obtained through my review of corporate records or
7 other investigation. If called to testify as a witness, I could and would testify competently to such
8 facts under oath.

9 2. I submit this declaration in support of Cisco’s Administrative Motion to File
10 Under Seal Confidential Information in Cisco’s Response To Arista’s Supplemental Proposed
11 Discovery Plan (“Motion to Seal”), filed by Plaintiff Cisco Systems, Inc. (“Cisco”) on February
12 16, 2016 (ECF No. 196).

13 3. I have reviewed Cisco’s Motion to Seal and the Civil Local Rules of this Court
14 governing such motions. I submit this supporting declaration pursuant to Civil Local Rule 79-
15 5(e).

16 4. Cisco’s Motion to Seal seeks to file under seal documents and information
17 submitted in connection with Cisco’s Response to Arista’s Supplemental Discovery Plan. *See*
18 ECF Nos. 196 (Admin. Mot. to Seal); 196-2 (Cisco’s unredacted Response). Arista’s underlying
19 request to increase the deposition limit is non-dispositive. Therefore, the strong presumption of
20 public access does not apply; instead, the “good cause” standard of Rule 26(c) of the Federal
21 Rules of Civil Procedure applies to Cisco’s Motion to Seal. *See Kamakana v. City & Cty. of*
22 *Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006). Civil Local Rule 79-5 further requires that a
23 party seeking to seal information and documents “establish[] that the document, or portions
24 thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the
25 law.” Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing
26 only of sealable material.” *Id.*

27 5. I submit this declaration to provide additional facts in support of Cisco’s Motion to
28 Seal and to provide facts establishing that the “good cause” standard has been met. Per the

1 instructions provided on the Northern District of California's website, this declaration is drafted
 2 so that it does not contain confidential information and does not need to be filed under seal. *See*
 3 <http://www.cand.uscourts.gov/ecf/underseal>.

4 6. Cisco submitted the Declaration of Matthew Cannon in support of its Motion to
 5 Seal ("Cannon Declaration") (ECF No. 196-1) and a highlighted copy of Cisco's brief (per Civil
 6 L.R. 79-5(d)(1)(D)) indicating the specific text within the brief that should be sealed (ECF No.
 7 196-2)

8 7. Paragraph 4 of the Cannon Declaration lists, in table format, the material Cisco
 9 seeks to file under seal. I address those materials below.

10 8. The portions of Cisco's Response to Arista's Supplemental Proposed Discovery
 11 Plan highlighted in yellow reflect Cisco's counsel's interpretation of documents or do not contain
 12 Arista confidential information. Arista does not oppose the public filing of the language in
 13 Cisco's brief that Cisco redacted in yellow.

14 9. Arista does not oppose the public filing of Exhibits 5, 7, and 9 to the Cannon
 15 declaration.

16 10. Exhibit 6 to the Cannon declaration is an excerpt from the transcript of the
 17 deposition of Arista employee Adam Sweeney, held January 29, 2016. There is good cause to
 18 seal a portion of Exhibit 6: page 177, lines 8–24. That portion contains sensitive internal Arista
 19 business information. In particular, it describes an internal process at Arista relating to software
 20 development, and includes an internal, non-public e-mail address used by Arista in developing
 21 software and a description of how the address is used. Arista seeks the sealing of page 177, lines
 22 8–24 of Exhibit 6. Arista does not oppose the public filing of the balance of Exhibit 6.

23 11. Exhibit 12 is an internal Arista e-mail chain among Arista employees. Arista
 24 designated Exhibit 12 "Highly Confidential—Attorneys' Eyes Only" pursuant to the stipulated
 25 protective order in this case. Exhibit 12 discloses the internal opinions of certain Arista personnel
 26 of Arista's competitors in the networking industry and Arista's competitive advantages and
 27 disadvantages. There is good cause to seal Exhibit 12 in its entirety because it is a confidential
 28 competitive intelligence discussion that took place among Arista personnel.

1 12. Exhibit 13 is an internal Arista e-mail chain among Arista employees. Arista
 2 designated Exhibit 13 “Highly Confidential—Attorneys’ Eyes Only” pursuant to the stipulated
 3 protective order in this case. There is good cause to seal Exhibit 13 because it discloses
 4 confidential internal communications at Arista relating to software development and business
 5 strategy. Exhibit 13 discloses proposed software features, discussions of software feature
 6 implementation, sales strategies, and the opinions of certain Arista personnel of Arista’s
 7 competitive advantages and disadvantages.

8 13. Exhibit 14 is an internal Arista e-mail chain among Arista employees. Arista
 9 designated Exhibit 14 “Highly Confidential—Attorneys’ Eyes Only” pursuant to the stipulated
 10 protective order in this case. There is good cause to seal Exhibit 14 because it discloses
 11 confidential internal communications at Arista relating to the development of Arista’s software,
 12 internal proposals on strategic directions for Arista’s software, rejected proposals on strategic
 13 directions, discussions of software feature implementation, and the opinions of certain Arista
 14 personnel of Arista’s competitive advantages and disadvantages.

15 14. Exhibit 15 is an internal Arista document. It was produced in the ITC litigation
 16 with Bates numbers beginning with ANI-ITC-944_945-0962624. Pursuant to the terms of the
 17 protective order, Arista produced Exhibit 15 in this litigation with the designation “Highly
 18 Confidential—Attorneys’ Eyes Only.” Access to Exhibit 15 is limited to Arista personnel only.
 19 There is good cause to seal Exhibit 15. The document discloses internal software strategies,
 20 guidelines, and conventions at Arista. Exhibit 15 includes discussions of Arista’s process for
 21 software feature development and implementation, Arista’s competitive and sales strategies for
 22 targeting customers, and Arista’s internal e-mail addresses used for software development.

23 15. Exhibit 17 is an internal Arista e-mail chain among Arista employees. Arista
 24 designated Exhibit 14 “Highly Confidential—Attorneys’ Eyes Only” pursuant to the stipulated
 25 protective order in this case. There is good cause to seal Exhibit 17 because it discloses internal
 26 discussions at Arista relating to software feature development, internal proposals on strategic
 27 directions for Arista’s software, rejected proposals on strategic directions, discussions of software
 28 feature implementation, and the opinions of certain Arista personnel of Arista’s competitive

advantages and disadvantages.

16. Below is a table summarizing the sealing requests Arista makes herein.

Document	Arista's Position
Cisco's Response to Arista's Supplemental Proposed Discovery Plan ("Cisco's Brief")	No opposition to public filing of yellow highlights. Blue highlights relate to information designated confidential by third party Juniper Networks.
Exhibit 5 to the Declaration of Matthew D. Cannon in Support of Cisco's Response to Arista's Proposed Supplemental Discovery Plan ("Exhibit 5")	No opposition to public filing.
Exhibit 6 to the Declaration of Matthew D. Cannon in Support of Cisco's Response to Arista's Proposed Supplemental Discovery Plan ("Exhibit 6")	Seal page 177, lines 8–24. Unseal the remainder.
Exhibit 7 to the Declaration of Matthew D. Cannon in Support of Cisco's Response to Arista's Proposed Supplemental Discovery Plan ("Exhibit 7")	No opposition to public filing.
Exhibit 9 to the Declaration of Matthew D. Cannon in Support of Cisco's Response to Arista's Proposed Supplemental Discovery Plan ("Exhibit 9")	No opposition to public filing.
Exhibit 12 to the Declaration of Matthew D. Cannon in Support of Cisco's Response to Arista's Proposed Supplemental Discovery Plan ("Exhibit 12")	Seal in its entirety.
Exhibit 13 to the Declaration of Matthew D. Cannon in Support of Cisco's Response to Arista's Proposed Supplemental Discovery Plan ("Exhibit 13")	Seal in its entirety.
Exhibit 14 to the Declaration of Matthew D. Cannon in Support of Cisco's Response to Arista's Proposed Supplemental Discovery Plan ("Exhibit 14")	Seal in its entirety.

Document	Arista's Position
Exhibit 15 to the Declaration of Matthew D. Cannon in Support of Cisco's Response to Arista's Proposed Supplemental Discovery Plan ("Exhibit 15")	Seal in its entirety.
Exhibit 17 to the Declaration of Matthew D. Cannon in Support of Cisco's Response to Arista's Proposed Supplemental Discovery Plan ("Exhibit 17")	Seal in its entirety.

Executed February 22, 2016, at San Francisco, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



EDUARDO E. SANTACANA